



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref: 8ENF-UFO

FEB 6 2006

CERTIFIED MAIL #
RETURN RECEIPT REQUESTED

Kenneth M. Merideth, President and Registered Agent
Ken's Equipment Repair, Inc.
P.O. Box 1475
Livingston, MT 59047-1475

Re: UNDERGROUND INJECTION
CONTROL PROGRAM (UIC)
Proposed Order and Penalty Complaint
with Notice of Opportunity for Hearing

Dear Mr. Merideth:

The enclosed document is a Proposed Order and Penalty Complaint with Notice of Opportunity for Hearing ("complaint") for violations of the Safe Drinking Water Act ("SDWA"). Please have Ken's Equipment Repair, Inc. ("Ken's Equipment Repair") carefully read the complaint soon, since it describes Ken's Equipment Repair's rights and responsibilities in this matter as well as EPA's authority, the factual basis of the violations, and the background for the proposed penalties. Also enclosed is a copy of the Rules of Practice that govern these proceedings, the required Public Notice associated with this complaint and, in case Ken's Equipment Repair meets the criteria, an information sheet about the Small Business Regulatory Fairness Act.

Ken's Equipment Repair is required to take action within 30 calendar days of your receipt of this Order to avoid the possibility of having a default judgment entered against Ken's Equipment Repair that could impose the penalty amount proposed in the complaint.

Whether or not Ken's Equipment Repair requests a hearing, we encourage an informal conference with EPA concerning the alleged violations in an effort to negotiate a settlement. Ken's Equipment Repair may wish to appear at an informal conference and/or be represented by legal counsel. To arrange for such a conference, Ken's Equipment Repair should contact Jim Eppers, Enforcement Attorney, Legal Enforcement Program, at the number provided below. Request for such a conference does not extend the 30 calendar day period during which a request for hearing must be submitted.



Printed on Recycled Paper

Public Notice of EPA's complaint and the opportunity to provide written comments on the complaint is being provided pursuant to section 1423 (c)(3)(B) of the SDWA, 42 U.S.C. § 300h-2(c)(3)(B). Should a hearing be held, any person who comments on the complaint has a right to participate in the hearing.

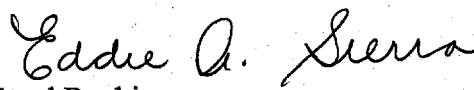
If Ken's Equipment Repair has technical questions relating to this matter, the person most knowledgeable on my staff is Carol L. Hutchings, UIC Enforcement Team, Technical Enforcement Program, at 1-800-227-8917 ext. 6485 or (303) 312-6485. For all legal questions, the person most knowledgeable on my staff is Jim Eppers at 1-800-227-8917 ext. 6893 or (303) 312-6893. Mrs. Hutchings and Mr. Eppers can also be reached at the following addresses:

Carol L. Hutchings (Mail Code 8ENF-UFO)
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466, or

Jim Eppers (Mail Code 8ENF-L)
Enforcement Attorney
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

We urge Ken's Equipment Repair's prompt attention to this matter.

Sincerely,

for 
Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures:

Proposed Order and Penalty Complaint
With Notice of Opportunity for Hearing
40 C.F.R. Part 22
Public Notice
U.S. EPA Small Business Resources Fact Sheet

1 UNITED STATES
2 ENVIRONMENTAL PROTECTION AGENCY 2006 FEB -6 AM 10: 05
3 REGION 8
4 Docket No. SDWA-08-2006-0013
5
6

FILED
EPA REGION VIII
HEARING CLERK

7 In the Matter of:)

8)
9 Ken's Equipment Repair, Inc.,)
10 a Montana corporation,)

11)
12 Respondent.)

**PROPOSED ORDER AND PENALTY
COMPLAINT WITH NOTICE OF
OPPORTUNITY FOR HEARING**

13
14 **INTRODUCTION**
15

16 1. This civil administrative enforcement action is authorized by Congress in section
17 1423(c) of the Public Health Service Act, also known as the Safe Drinking Water Act (SDWA or
18 the Act) 42 U.S.C. 300h-2(c). The Environmental Protection Agency (EPA) regulations
19 authorized by the statute are set out in part 144 of title 40 of the Code of Federal Regulations
20 (C.F.R.), and violations of the statute, permits, or EPA regulations constitute violations of the
21 Act. The rules for this proceeding are the "Consolidated Rules of Practice Governing the
22 Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action
23 Orders and the Revocation, Termination or Suspension of Permits ("Rules of Practice"),"
24 40 C.F.R. part 22, a copy of which is enclosed.
25

26 2. The undersigned EPA official has been properly delegated the authority to issue this
27 Proposed Order and Penalty Complaint with Notice of Opportunity for Hearing (complaint).
28

29 3. EPA alleges that Ken's Equipment Repair, Inc. (Respondent) has violated the Act and
30 proposes the assessment of a civil penalty and compliance measures, as more fully explained
31 below.
32

33 **NOTICE OF OPPORTUNITY FOR A HEARING**
34

35 4. Respondent has the right to a public hearing before an administrative law judge to
36 disagree with any factual allegation made by EPA in the complaint, the appropriateness of the
37 proposed penalty, or to present the grounds for any legal defense it may have.
38
39
40
41
42

1 5. To disagree with the complaint and assert its right to a hearing, Respondent must file a
2 written answer (and one copy) with the Region 8 Hearing Clerk at the following address:

3
4 Region 8 Hearing Clerk
5 999 18th Street; Suite 300 (8RC)
6 Denver, Colorado 80202
7

8 within 30 calendar days of receiving this complaint. The answer must clearly admit, deny or
9 explain the factual allegations of the complaint, the grounds for any defense, the facts you may
10 dispute, and your specific request for a public hearing. Please see section 22.15 of the Rules of
11 Practice for a complete description of what must be in the answer. **FAILURE TO FILE AN**
12 **ANSWER AND REQUEST FOR HEARING WITHIN 30 CALENDAR DAYS MAY**
13 **WAIVE RESPONDENT'S RIGHT TO DISAGREE WITH THE ALLEGATIONS OR**
14 **PROPOSED PENALTY, AND RESULT IN A DEFAULT JUDGMENT AND**
15 **ASSESSMENT OF THE PENALTY PROPOSED IN THE COMPLAINT, OR UP TO**
16 **THE MAXIMUM AUTHORIZED BY THE ACT.**

17 QUICK RESOLUTION

18
19
20 6. Respondent may resolve this proceeding at any time by paying the penalty amount
21 proposed in the complaint. Such action to make payment need not contain any response to, or
22 admission of, the allegations in the complaint. Such action to make payment constitutes a waiver
23 of Respondent's right to contest the allegations and to appeal the final order. See section 22.18
24 of the Rules of Practice for a full explanation of the quick resolution process.
25

26 SETTLEMENT NEGOTIATIONS

27
28 7. EPA encourages discussing whether cases can be settled through informal settlement
29 conferences. If you want to pursue the possibility of settling this matter, or have any other
30 questions, contact Jim Eppers, Senior Enforcement Attorney, at [1-800-227-8917 ; extension
31 6893 or 303-312-6893] or at the address identified in paragraph 28 herein. **Please note that**
32 **calling Mr. Eppers or requesting a settlement conference does NOT delay the running of**
33 **the 30 day period for filing an answer and requesting a hearing.**
34

35 GENERAL ALLEGATIONS

36
37 The following general allegations apply to all times relevant to this action, and to each
38 count of this complaint:
39

40 8. Pursuant to section 1422 of the Act, 42 U.S.C. § 300h-1, and 40 C.F.R. part 147
41 subpart BB, section 147.1351, EPA administers the Underground Injection Control (UIC)
42 program for Class I, III, IV, and V wells in the State of Montana. The effective date of the
43

1 program is June 25, 1984. The program requirements are located at 40 C.F.R. Parts 124, 144,
2 146, 147, and 148.

3
4 9. On February 23, 2004, EPA received a partially completed Shallow Injection Well
5 Inventory Request Form prepared by Ken Merideth, President of Ken's Equipment Repair, Inc.
6 The Inventory Request Form identified a disposal system that includes floor drains in the
7 maintenance shop, that were accepting waste fluids and discharging the waste to an individual
8 subsurface disposal system. The form did not identify what type of subsurface distribution
9 system the floor drains were connected to. The form stated that the waste did not go to a public
10 sewer system, a surface discharge, a self-contained holding tank, a lagoon or a pond.

11
12 10. On March 19, 2004, an EPA representative performed a routine inventory verification
13 inspection of the Ken's Equipment Repair, Inc. facility, located at 1224 Highway 10 West,
14 Livingston, Montana. The inspection found there were two floor drains in the shop area, one in
15 the shop floor and one in the bottom of an auto maintenance pit. Mr. Merideth, the facility
16 operator, told the EPA representative that he thought that the floor drain in the main shop floor
17 discharged to the sump in the auto maintenance pit. Mr. Merideth was uncertain if the drains
18 were hooked to the septic system or another type of system. The EPA inspector witnessed motor
19 vehicle maintenance in progress in the shop at the time of the inspection.

20
21 11. Motor vehicle waste disposal wells are defined at 40 C.F.R. §144.81(16) as follows:
22 "Motor vehicle waste disposal wells that receive or have received fluids from vehicular repair or
23 maintenance activities, such as an auto body repair shop, automotive repair shop, new and used
24 car dealership, specialty repair shop (e.g., transmission and muffler repair shop), or any facility
25 that does any vehicular repair work."

26
27 12. Respondent's disposal system, as identified in the inventory verification inspection in
28 paragraph 10 above, is classified as a "Class V Injection Well" as defined by 40 C.F.R. §144.6
29 and §146.5 and is a motor vehicle waste disposal well as defined by 40 C.F.R. §144.81(16).
30 Respondent is currently authorized by rule (40 C.F.R. §144.24) to operate the disposal system
31 described above. Respondent is therefore subject to applicable requirements of
32 40 C.F.R. §§ 124, 144 and 146.

33
34 13. As authorized by 40 C.F.R. §144.12(c) and (d) and 40 C.F.R. §144.88(b), on April
35 27, 2004, EPA mailed a UIC Shallow Injection Well Program letter to Respondent. The letter
36 was received by Respondent on May 4, 2004. The letter required the Respondent to either:

37
38 a. submit a completed permit application by June 3, 2004, or

39
40 b. submit a plan for permanent closure of the motor vehicle waste disposal portion of the
41 system (including a written schedule and plan for alternative disposal of the waste) by
42 June 3, 2004 and permanently close that portion of the system by September 12, 2004.
43 Once the system was closed or retrofitted, documentation needed to be provided to EPA

1 including an as-built sketch of the drain system showing where the changes had been
2 made.

3
4 14. On June 3, 2004, EPA received a plan from Respondent for closure of the Class V
5 motor vehicle waste disposal system, proposing to plug the line leaving the maintenance pit
6 floor drain and sump. The sump was to be used as a self-contained holding tank for the waste
7 disposed of into the floor drain. The letter stated that Respondent would complete the system
8 closure by the September 12, 2004 deadline.

9
10 15. On August 18, 2005, EPA representatives performed a routine inspection of the
11 Ken's Equipment Repair, Inc. facility to verify the closure of the motor vehicle waste disposal
12 system. The inspectors found the motor vehicle waste disposal system well which was to be
13 closed by September 12, 2004, was still open and operational. The EPA representatives observed
14 used oil and likely other petroleum products floating in the floor drain sump in the automotive
15 repair bay pit.

16
17 16. On or around February 17, 2005, a representative from the Montana Department of
18 Environmental Quality (MDEQ) contacted EPA after identifying free product (used oil) in a
19 monitoring well located behind the Ken's Equipment facility. It is EPA's understanding that
20 MDEQ is contemplating remediation of the used oil and other petroleum contamination in the
21 area of the Ken's Equipment Repair facility.

22
23 17. On September 15, 2005, EPA mailed to Respondent a UIC Shallow Injection Well
24 Program Notice of Noncompliance for failure to close the motor vehicle waste disposal system
25 and for operating a shallow Class V disposal system in a manner that may allow the movement of
26 fluids into an underground source of drinking water containing contaminants in concentrations
27 above the MCLs for drinking water.

28
29 18. On October 3, 2005, EPA received a letter from the Respondent stating the Class V
30 disposal system had been closed on September 22, 2005. Respondent stated the pipes for the
31 drain system had been cemented closed. The letter also identified a waste disposal service to
32 pump the waste collected in the future in the self-contained holding tank located in the
33 automotive repair bay pit.

34
35 19. On December 15, 2005, an EPA representative performed a routine inspection of the
36 Ken's Equipment facility to verify the closure of the motor vehicle waste disposal system. The
37 inspector found the Class V motor vehicle waste disposal system had been closed. The drain on
38 the shop floor had been cemented flat with the floor and the discharge pipe from the sump in the
39 automotive repair bay pit had been cemented closed.

40
41 20. Respondent, Ken's Equipment Repair, Inc., from January 8, 1996 and to the present,
42 is a corporation organized in and authorized to do business in the State of Montana.
43

21. Respondent is a "person" within the meaning of Section 1401(12) of the Act,
42 U.S.C. § 300f(12).

22. Respondent, at all times pertinent to this complaint, operated an automotive repair and maintenance facility, located at 1224 Highway 10 West, Livingston, Montana.

23. Lying underneath the disposal system are underground sources of drinking water (USDWs), including but not limited to a shallow alluvial aquifer, which encounter groundwater between 9 to 12 feet and the deeper and widely used Livingston aquifer.

COUNT 1

24. Respondent is in violation of 40 C.F.R. §144.12(a) and 40 C.F.R. §144.82(a)(1) by owning, operating, and maintaining a Class V disposal facility which, through injection activity, allows the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 C.F.R. part 142 or may otherwise adversely affect the health of persons. The Respondent's failure to discontinue the use of its Class V motor vehicle waste disposal system may endanger or otherwise affect the health of persons. The duration of Respondent's violations is from February 19, 2004 to September 22, 2005.

COUNT 2

25. Respondent is in violation of 40 C.F.R. §144.12(c)(1) and (2) and 40 C.F.R. §144.88(b) for failure to close or retrofit the Class V disposal system in a manner that would keep contaminants from entering a USDW. The duration of Respondent's violations for failure to close or retrofit the Class V disposal system is from September 12, 2004 to September 22, 2005.

PROPOSED ORDER WITH ADMINISTRATIVE CIVIL PENALTY

26. The Act authorizes the assessment of a civil penalty of up to \$27,5000 per day, for each violation occurring on and after January 31, 1997 and increases to \$32,500 per day, for each violation of the Act occurring on or after March 16, 2004, 42 U.S.C. § 1423(b). (See also 40 C.F.R. Part 19) The Act requires EPA to take into account the following factors in assessing a civil penalty: the nature, circumstances, extent and gravity of the violation; any economic benefit or savings gained resulting from the violation; Respondent's history of such violations; Respondent's culpability for the violation; Respondent's good-faith efforts to comply with applicable requirements; the economic impact of the penalty on the Respondent; and other factors that justice may require.

1 27. In light of the statutory factors and the specific facts of this case, EPA proposes that
2 a penalty of fifty-four thousand dollars (\$54,000.00) be assessed against Respondent(s) for
3 the violations alleged above, as explained below:
4

5 Nature, Circumstances, Extent, and Gravity of Violations
6

7 Respondent operates the facility identified and described in paragraphs 9 and 10 above
8 and had the ability and means to comply with the Act by closing or retrofitting the waste
9 disposal system to prevent movement of fluids to a USDW that may endanger the health
10 or persons.
11

12 Prior Compliance History
13

14 This complaint is the first enforcement action EPA Region 8 has issued to Respondent
15 requiring compliance with the applicable UIC regulations.
16

17 Good-Faith Efforts to Comply
18

19 Respondent did not make a good faith effort to make changes to the disposal system by
20 the required date and did not close the system until September 22, 2005.
21

22 Degree of Culpability
23

24 Respondent should have been aware of all UIC requirements prior to EPA's first contact.
25 On April 27, 2004, when Respondent received EPA's UIC Shallow Injection Well
26 Program letter (see paragraph 13, above), Respondent had actual notice of the
27 requirements.
28

29 Economic Benefit
30

31 An economic benefit was experienced by Respondent for failure to permit or close its
32 Class V well. The delayed cost of compliance, was, however, minimal.
33

34 Ability to Pay
35

36 EPA did not reduce the proposed penalty due to this factor, but will consider any new
37 information Respondent may present regarding Respondent's ability to pay the penalty
38 proposed in this complaint.
39

40 Other Matters that Justice may Require
41

42 No adjustments were made by EPA regarding this factor.
43

1 28. Respondent's payment of the penalty shall be made by money order or certified
2 check made payable to "Treasurer, United States of America" and mailed to the following
3 address:

4 EPA - Region 8
5 Regional Hearing Clerk
6 P.O. Box 360859
7 Pittsburgh, PA 15251.
8

9 A copy of said check shall be mailed to the following address:

10
11 Jim Eppers (8ENF-L)
12 Enforcement Attorney
13 U.S. EPA - Region 8
14 999 18th Street, Suite 300
15 Denver, CO 80202-2466.
16

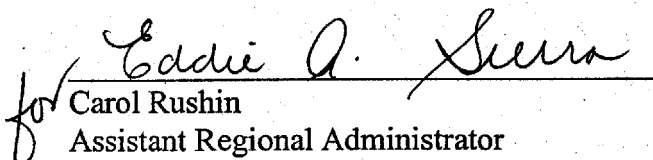
17 29. The provisions of this Order shall apply to and be binding upon Respondent and its
18 respective officers, directors, agents, successors or assigns.
19

20 30. As required by the Act, prior to the assessment of a civil penalty, EPA will provide
21 public notice of the proposed penalty, and reasonable opportunity for people to comment on the
22 matter, and present evidence in the event a hearing is held. 42 U.S.C. § 1423(c)(3)(B).
23

24 31. The administrative law judge is not bound by EPA's penalty policy or the penalty
25 proposed by EPA, and may assess a penalty above the proposed amount, up to either \$27,500 or
26 the \$32,500 per day for each violation as authorized in the statute.
27

28 32. This complaint does not constitute a waiver, suspension, or modification of the
29 requirements of any applicable provision of the Act or the UIC regulations implementing the Act,
30 which remain in full force and effect. Issuance of this complaint is not an election by the EPA to
31 forego any civil or any criminal action otherwise authorized under the Act.
32

33 Issued this 6TH day of FEBRUARY, 2006.
34
35

36 
37 for Carol Rushin
38 Assistant Regional Administrator
39 Office of Enforcement, Compliance,
40 and Environmental Justice
41 U.S. EPA, Region 8
42 999 18th Street, Suite 300
43 Denver, CO 80202-2466

**U.S. ENVIRONMENTAL PROTECTION AGENCY
PUBLIC NOTICE
OPPORTUNITY FOR PUBLIC COMMENT ON
PROPOSED ORDER AND PENALTY COMPLAINT
WITH NOTICE OF OPPORTUNITY FOR HEARING
AGAINST
KEN'S EQUIPMENT REPAIR, INC.
FOR FAILURE TO COMPLY WITH
UNDERGROUND INJECTION CONTROL REGULATIONS**

PURPOSE OF PUBLIC NOTICE

The purpose of this notice is to solicit written comments on a Proposed Order and Penalty Complaint with Notice of Opportunity for Hearing (complaint) [Docket No. **SDWA-08-2006-00**]³ that Region 8 of the United States Environmental Protection Agency (EPA) proposes to issue against Ken's Equipment Repair, Inc., 1224 Highway 10 West, Livingston, Montana. The complaint alleges violations of the Underground Injection Control (UIC) regulations and proposes monetary penalties for the alleged violations. The complaint is issued under the UIC provisions of the Safe Drinking Water Act (SDWA) and the Act's implementing regulations. These regulations govern the injection of fluids that may endanger an underground source of drinking water (USDW).

EPA desires to receive written comments from any interested party having knowledge of the alleged violations or who can provide any information useful to ensure that the proposed remedies are appropriate. EPA will review any comments received on the complaint, and will thereafter determine whether to modify or withdraw the complaint or whether to modify the proposed penalty and/or compliance requirements.

BACKGROUND

Part C of the SDWA requires the EPA to regulate underground injection of fluid through wells to assure that underground sources of drinking water (USDW) are not endangered. Section 1421 of the SDWA requires EPA to administer UIC programs in States that do not have approved State UIC programs. Regulation of the UIC Class V Program has not been delegated to the State of Montana; therefore, EPA administers the program in accordance with Title 40 of the Code of Federal Regulations (40 C.F.R.), Parts 124, 144, 146, 147, and 148.

The Class V disposal system which is the subject of this complaint, is operated by Ken's Equipment Repair, Inc., 1224 Highway 10 West, Livingston, Montana. A Class V injection well, pursuant to 40 C.F.R. 144.6 and 146.5, is a shallow injection well that injects fluids into or above

a USDW. The well subject to this complaint is of the subclass titled "motor vehicle waste disposal well," and is used to dispose of internal combustion engine repair and maintenance facility wastes.

The complaint alleges that Ken's Equipment Repair, Inc., is in violation of UIC regulations and is subject to appropriate penalties and fines for failing to: (a) prevent movement of fluids into a USDW that may cause a violation of a primary drinking water regulation under 40 C.F.R. Part 142 or otherwise adversely affect the health of persons, and (b) close or retrofit the Class V disposal system in a timely manner to keep contaminants from entering a USDW. The complaint proposes that EPA assess an administrative civil penalty in the amount fifty-four thousand dollars (\$54,000.00).

PUBLIC COMMENTS

Written comments on the complaint are encouraged and will be accepted at the address listed below for a period of thirty (30) days after the publication of this notice. Written comments submitted by the public as well as information submitted by Ken's Equipment Repair, Inc., will be available for public review as part of the Administrative Record, subject to the provisions of law restricting the disclosure of confidential information. Ken's Equipment Repair, Inc. may request a hearing. Any person submitting written comments will be notified of and has a right to participate in such a hearing. The complaint, as proposed, and the Administrative Record are available for review between 9:00 a.m. and 4:00 p.m. at the address listed below. It is recommended that those wishing to view the Administrative Record call James H. Eppers, Enforcement Attorney, Legal Enforcement Program, EPA Region 8, at (303) 312-6893 before visiting the EPA Region 8 offices.

Please submit written comments to:

Tina Artemis (8RC)
Regional Hearing Clerk
U.S. EPA, Region 8
999 18th Street, Suite 500
Denver, Colorado 80202-2466

A copy of the complaint will also be available for public review Monday-Friday between 8:00 a.m. and 5:00 p.m. at the Gallatin County Clerk/Recorder's Office, 311 W. Main Street, Bozeman, Montana.

Any person interested in receiving a copy of this or any future public notice of a UIC administrative action can call Carol Lee Hutchings in the UIC Program, EPA Region 8, at (303) 312-6485.

THE DECISION

EPA will review and consider all public comments received on the complaint and will thereafter determine whether to modify or withdraw the complaint or whether to modify the proposed penalty and/or compliance requirements. If the complaint is revised, copies will be provided to all parties and to all members of the public who have commented.

Date of Publication

Elisabeth Evans

Elisabeth Evans, Director
Technical Enforcement Program
Office of Enforcement, Compliance, and
Environmental Justice
U.S. EPA, Region 8
999 18th Street, Suite 300
Denver, CO 80202-3466

shall also be sent to the Regional Administrator for review. The Regional Administrator shall notify the State, the applicant, and the SBA of any determination subsequently made, in accordance with §21.5, on any such statement.

(1) If within 60 days after notice of such deficiencies has been provided, the State has not taken corrective efforts, and if the deficiencies significantly affect the conduct of the program, the Regional Administrator, after sufficient notice has been provided to the Regional Director of SBA, shall withdraw the approval of the State program.

(1) Any State whose program is withdrawn and whose deficiencies have been corrected may later reapply as provided in §21.12(e).

(2) Funds appropriated under section 106 of the Act may be utilized by a State agency authorized to receive such funds in conducting this program.

§21.13 Effect of certification upon authority to enforce applicable standards.

The certification by EPA or a State for SBA Loan purposes in no way constitutes a determination by EPA or the State that the facilities certified (a) will be constructed within the time specified by an applicable standard or (b) will be constructed and installed in accordance with the plans and specifications submitted in the application, will be operated and maintained properly, or will be applied to process wastes which are the same as described in the application. The certification in no way constitutes a waiver by EPA or a State of its authority to take appropriate enforcement action against the owner or operator of such facilities for violations of an applicable standard.

PART 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION/TERMINATION OR SUSPENSION OF PERMITS

Subpart A—General

Sec. 22.1 Scope of this part.

22.2 Use of number and gender.

22.3 Definitions.

22.4 Powers and duties of the Environmental Appeals Board, Regional Judicial Officer and Presiding Officer; disqualification, withdrawal, and reassignment.

22.5 Filing, service, and form of all filed documents; business confidentiality claims.

22.6 Filing and service of rulings, orders and decisions.

22.7 Computation and extension of time.

22.8 Ex parte discussion of proceeding.

22.9 Examination of documents filed.

22.10 Appearances.

22.11 Intervention and non-party briefs.

22.12 Consolidation and severance.

22.13 Commencement of a proceeding.

22.14 Answer to the complaint.

22.15 Motions.

22.16 Default.

22.17 Quick resolution; settlement; alternative dispute resolution.

22.18 Prehearing information exchange; pre-hearing conference; other discovery.

22.19 Accelerated decision; decision to dismiss.

Subpart D—Hearing Procedures

22.20 Assignment of Presiding Officer scheduling the hearing.

22.21 Evidence.

22.22 Objections and offers of proof.

22.23 Burden of presentation; burden of persuasion; preponderance of the evidence standard.

22.24 Filing the transcript.

22.25 Proposed findings, conclusions, and order.

Subpart E—Initial Decision and Motion to Reopen a Hearing

22.26 Initial decision.

22.27 Motion to reopen a hearing.

Subpart F—Appeals and Administrative Review

22.28 Appeal from or review of interlocutory orders or rulings.

22.29 Appeal from or review of initial decision.

Subpart G—Final Order

22.30 Final order.

22.31 Motion to reconsider a final order.

Subpart H—Supplemental Rules

22.32 [Reserved]

22.33 Supplemental rules governing the administrative assessment of civil penalties under the Clean Air Act.

22.34 Supplemental rules governing the administrative assessment of civil penalties under the Federal Insecticide, Fungicide, and Rodenticide Act.

22.35 [Reserved]

22.36 Supplemental rules governing administrative proceedings under the Solid Waste Disposal Act.

22.37 Supplemental rules of practice governing the administrative assessment of civil penalties under the Clean Water Act.

22.38 Supplemental rules governing the administrative assessment of civil penalties under the Clean Water Act.

22.39 Supplemental rules governing the administrative assessment of civil penalties under section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

22.40 [Reserved]

22.41 Supplemental rules governing the administrative assessment of civil penalties under Title II of the Toxic Substances Control Act, enacted as section 2 of the Asbestos Hazard Emergency Response Act (AHERA).

22.42 Supplemental rules governing the administrative assessment of civil penalties for violations of compliance orders issued to owners or operators of public water systems under part B of the Safe Drinking Water Act.

22.43 Supplemental rules governing the administrative assessment of civil penalties against a federal agency under the Safe Drinking Water Act.

22.44 Supplemental rules of practice governing the termination of permits under section 402(a) of the Clean Water Act or under section 3008(a)(3) of the Resource Conservation and Recovery Act.

22.45 Supplemental rules governing public notice and comment in proceedings under sections 309(e) and 311(b)(6)(B)(i) of the Clean Water Act and section 143(c) of the Safe Drinking Water Act.

22.46-22.49 [Reserved]

Subpart I—Administrative Proceedings Not Governed by Section 554 of the Administrative Procedure Act

22.50 Scope of this subpart.

22.51 Presiding Officer.

22.52 Information exchange and discovery.

AUTHORITY: 7 U.S.C. 136(i); 16 U.S.C. 2615; 33 U.S.C. 1319, 1342, 1361, 1415 and 1418; 42 U.S.C. 806-816; 6921, 6925, 6928, 6931e and 6932a; 42 U.S.C. 7413(d), 7524(c), 7545(d), 7547, 7601 and 7607(a), 9609, and 11045.

SOURCE: 64 FR 40176, July 23, 1999, unless otherwise noted.

Subpart A—General

§22.1 Scope of this part.

(a) These Consolidated Rules of Practice govern all administrative adjudicatory proceedings for:

(1) The assessment of any administrative civil penalty under section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act as amended (7 U.S.C. 136(a));

(2) The assessment of any administrative civil penalty under sections 113(d), 205(c), 211(d) and 213(d) of the Clean Air Act, as amended (42 U.S.C. 7413(d), 7524(c), 7545(d) and 7547(d));

(3) The assessment of any administrative civil penalty or for the revocation or suspension of any permit under section 105(a) and (f) of the Marine Protection, Research, and Sanctuaries Act as amended (33 U.S.C. 1415(a) and (f));

(4) The issuance of a compliance order or the issuance of a corrective action order, the termination of a permit pursuant to section 3008(a)(3), the suspension or revocation of authority to operate pursuant to section 3005(e), or the assessment of any civil penalty under sections 3008, 3009, and 11005 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6925(d), 6925(e), 6928, 6931e, and 6932(d)), except as provided in part 24 of this chapter;

(5) The assessment of any administrative civil penalty under sections 16(a) and 207 of the Toxic Substances Control Act (15 U.S.C. 2615(a) and 2647);

(6) The assessment of any Class II penalty under sections 309(e) and 311(b)(6), or termination of any permit issued pursuant to section 402(a) of the Clean Water Act, as amended (33 U.S.C. 1319(g), 1321(b)(6), and 1342(a));

(7) The assessment of any administrative civil penalty under section 10(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. 9609)

(8) The assessment of any administrative civil penalty under section 32 of the Emergency Planning and Community Right-to-Know Act of 1980 ("EPCRA") (42 U.S.C. 11045);

(9) The assessment of any administrative civil penalty under section



U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance and tools to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

Hotlines, Helplines and Clearinghouses

EPA sponsors approximately 89 free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements.

The National Environmental Compliance Assistance Clearinghouse provides quick access to compliance assistance tools, contacts, and planned activities from the U.S. EPA, states, and other compliance assistance providers: <http://www.epa.gov/clearinghouse>

Pollution Prevention Clearinghouse
<http://www.epa.gov/opptintr/library/ppicindex.htm>

EPA's Small Business Ombudsman Hotline can provide a list of all the hot lines and assist in determining the hotline best meeting your needs:
(800) 368-5888

Emergency Planning and Community Right-To-Know Act
(800) 424-9346

National Response Center (to report oil and hazardous substance spills)
(800) 424-8802

Toxics Substances and Asbestos Information
(202) 554-1404

Safe Drinking Water
(800) 426-4791

Stratospheric Ozone and Refrigerants Information
(800) 296-1996

Clean Air Technology Center
(919) 541-0800

Wetlands Helpline
(800) 832-7828

EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

EPA's Home Page
<http://www.epa.gov>

Small Business Assistance Program
<http://www.epa.gov/ttn/sbap>

Office of Enforcement and Compliance Assurance
<http://www.epa.gov/compliance>

Compliance Assistance Home Page
<http://www.epa.gov/compliance/assistance>

Office of Regulatory Enforcement
<http://www.epa.gov/compliance/civil/index.html>

Office of Site Remediation Enforcement
<http://www.epa.gov/compliance/cleanup>

Innovative Programs for Environmental Performance
<http://www.epa.gov/partners>

Small Business Ombudsman
www.sba.gov/ombudsman

